



PATENT

Attorney Docket No.: A-67641-1/RFT/NBC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*In re*application of: Malecha *et al.*

Serial No. 09/494,149

Filed: January 28, 2000

For: *Methods of Isolating the
Androgenic Sex Hormone
from Crustacean Prawn
and Marine Shrimp and
Methods of Use*

Examiner: Paras Jr., P.

Group Art Unit: 1632

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CERTIFICATE OF MAILING

I hereby certify that this correspondence, including listed enclosures,
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Patents, Washington, DC 20231.

Date: October 31, 2001

Signed:

Gail Diehl
Gail Diehl

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR § 1.137(b)**

Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

Sir:

The above-identified application became abandoned for failure to include and timely file a Notice of Appeal along with the Response to Final Office Action filed with the Patent and Trademark Office on September 12, 2001, in the above-referenced matter. The entire delay in filing the required Notice of Appeal (with an additional request for a third month extension) beginning on the October 11, 2001 final due date for the notice of appeal and continuing until the filing of this grantable petition under 37 CFR 1.137(b), was unintentional.

It is the standard practice of the supervising partner in this case to accompany a response to a final office action with a notice of appeal when the response is filed less than one month prior to the expiration of a maximum six month statutory period for responding to a Patent Office communication.

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In these particular circumstances, however, our offices, along with the Patent and Trademark Office, were closed on September 11, 2001, due to terrorist attacks against the United States. The associate attorney, who prepared the response (along with a petition for a two month extension of time) for the signature of the supervising partner, neglected to include an accompanying notice of appeal. The response was filed with the Patent and Trademark Office on September 12, 2001, in accordance with the emergency provisions established by the Patent Office, due to the closure of the Patent Office on September 11, 2001.

The associate who prepared the response has subsequently left the firm and it has recently come to our attention, by way of an advisory action mailed October 19, 2001, that the claims in the above-referenced matter are not in condition for allowance. The deadline for filing a notice of appeal expired on October 11, 2001 (with an additional request for a third month extension). Applicant failed to receive notice that the claims were not in condition for allowance until after October 22, 2001. The application, which is now the subject of this petition, has thus been abandoned since October 12, 2001.

For the above-stated reasons, Applicant hereby petitions for revival of the above-identified application due to the unintentional abandonment of the application under 37 CFR § 1.37(b). Applicant submits the following fees and papers in connection with the Petition to Revive:

- (1) a petition to revive unintentionally abandoned application small entity fee (\$640.00);
- (2) a Request for Continued Examination (RCE) under 37 CFR § 1.114;
- (3) an RCE small entity filing fee (\$370.00);
- (4) a Notice of Appeal; and
- (5) a Notice of Appeal small entity fee (\$160.00).

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CONCLUSION

Applicant respectfully requests consideration of this Petition for Revival under 37 CRF 1.137(b).

If the Commissioner has further unresolved issues after considering this petition, the Commissioner is respectfully requested to phone the undersigned attorney.

The Commissioner is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 06-1300 (A-67641-1/RFT/NBC).

Respectfully submitted,

FLEHR HOHBACH TEST
ALBRITTON & HERBERT LLP

Date: October 31, 2001


Richard F. Trecartin, Reg. No. 31,801

Four Embarcadero Center, Suite 3400
San Francisco, California 94111-4187
Telephone: (415) 781-1989